

REMARKS/ARGUMENTS

Claims 1-53 are pending in this application. Claims 1, 17, 28, 32, 36, and 45 are currently amended, and such amendments are fully supported by the specification and drawings at least at page 17, line 16-page 18, line 2, and Figure 6. For at least the reasons set forth below, Applicants assert that all claims are in condition for allowance.

Applicants thank the Examiner for the telephonic interview of 9/6/2005 and the follow-up telephonic interview of 9/7/2005, wherein the present application and Application Serial No. 09/783,660 were discussed. In the interview of 9/6/2005, Applicants' representative discussed the Simonoff reference with Examiner. It appeared that Applicants' argument regarding the non-anticipation of the claims by the Simonoff reference were persuasive to Examiner, particularly the argument that the reference failed to teach the recited component, "skeletal UI". However, on 9/7/2005 Examiner contacted Applicants' representative again and provided a new reference, U.S. Patent No. 5,347,632 (the "Filepp" reference), which Examiner asserted teaches the "skeletal UI."

Double Patenting Rejection

Claims 1-53 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5-6, 10-18, 46-47, 19-20, 29-31, 33-34, 36, 38, and 45 of U.S. Patent Application No. 09/783,660 in view of Simonoff et al., U.S. Pat. No. 6,078,322. A terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) is filed herewith to overcome the nonstatutory double patenting rejection, thereby obviating this rejection.

Rejection Under 35 U.S.C. § 102

Claims 1-3, 5-6, 7, 8-12, 14-19, 21-22, 23, 24-47, 48, 49-53 were rejected under 35 U.S.C. § 102(e) as being anticipated by Simonoff et al. U.S. 6,078,322. As set forth in more detail in the previous amendment and during the aforementioned telephonic interviews, the reference fails to describe every element of every claim as required by MPEP § 2131, and therefore the rejection is unsupported by the art. To the extent Examiner was not persuaded during the interviews that Simonoff failed to anticipate the pending claims, Applicants address

the Simonoff reference below and Applicants have amended the claims to clarify the “skeletal UI” as requested by examiner. To the extent that Examiner was convinced that the Simonoff reference does not teach at least the “skeletal UI” but believes the Filepp reference teaches this limitation, the Filepp reference is also addressed below. For at least the reasons stated below, Applicants respectfully request that the rejection be withdrawn.

Simonoff Reference

Independent claims 1, 32, and 36 recite “supplementing a skeletal UI...with one or more icons, labels or menu items, or combinations thereof.” The *Simonoff* reference fails to disclose this limitation. *Simonoff* describes a Universal Client device that is downloaded to the client host 300, which in turn loads and interprets a GUIscript file, and then displays an appropriate GUI to the user. Col. 8, line 66-Col. 9, line 4; Col. 9, lines 34-38. However, there is no indication in the reference that the GUIscript file or the GUI is anything less than an entire UI displayed to a user. Nowhere does *Simonoff* describe a “skeletal UI,” much less supplementing a “skeletal UI” with icons, labels, or menu items as claimed. Because the reference does not teach or suggest a skeletal UI as claimed, the rejection fails to establish a valid § 102 rejection, which requires that a reference teach every element of every claim. See MPEP § 2131.

In response, Examiner argued:

...Simonoff teaches the above limitations. See for example, Col. 12, lines 24-60, wherein the GUIscripts carries a GUI change in response to an event, the event, i.e. button clicking, has resulted in partial GUI updating, only a portion of the GUI are generated at a time, any additional changes applies to the existing GUI are based upon system events, thus, GUI elements are supplemented in accordance with client requests, (see also, Col. 11, lines 55-67; Col. 12, lines 40-45).

Office Action, 6/17/2005, p. 22-23, ¶ 54. However, as explained by Applicants’ representative in the telephonic interview of 9/6/2005, this teaching of *Simonoff* does not anticipate the “skeletal UI.” Specifically, the operating steps of the system of *Simonoff* cited by Examiner and described at Col. 12, lines 24-60 and Fig. 5, describe changing a GUI by indiscriminately refreshing the entire GUI based on a GUIscript message. See Col. 12, lines 49-53 (“The second GUIscript message is...used by the Universal Client device in generating a refreshed GUI during step 14”); *see also*, Fig. 5, step 14 (“refresh GUI”). There is no indication that any

component or element described in *Simonoff* is skeletal, and there is no indication that such a component or element is supplemented much less that is supplemented “with one or more icons, labels or menu items” as claimed.

Moreover, Examiner’s argument rests on the assumption that when an application in the *Simonoff* system performs an operation, “GUIScripts carries a GUI change” and “only a portion of the GUI are generated at a time.” However, *Simonoff* describes only that an application message may include “information denoting a change in the appearance of the GUI displayed on the client host 300.” Col. 12, lines 40-45. Interpreting this passage as teaching that the GUIScript message contains only changes to the GUI definition—rather than an entire GUI definition with changes—is contrary to the reference as a whole, which teaches that the GUIScript file “defines all the display windows and their operation for the application running on the application host 200” and is usable to “display the appropriate GUI to the user.” Col. 9, lines 33-50. (emphasis added). *See MPEP § 2141.03 (VI)*(“A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.”)

Additionally, Examiner’s argument is further made moot by the amendments to the independent claims, which *inter alia* clarify the “skeletal UI” as requested by Examiner during the interview. Specifically, claims 1, 32, and 36 now recite that “the skeletal UI specifies a layout of the client-resident intermediate UI including respective locations of the one or more icons, labels or menu items, or combinations thereof,” and claims 17 and 45 recite “the UI form definition includes a list of controls and respective locations of the controls as rendered on the client device, the controls being UI objects provided by the client device operating system or other client-resident application.” Claims 1, 32, and 36 further recite “the skeletal UI and the one or more icons, labels, and menu items being independently updateable from one another,” and claims 17 and 45 recite “the UI form definition and the controls being independently updateable from one another.” *Simonoff* clearly fails to teach any skeletal UI or form definition element that achieves all of these limitations.

For at least these reasons, the *Simonoff* reference does not describe such GUI objects as being skeletal nor supplementing the same.

Filepp Reference

During the interview on 9/7/2005, Examiner identified the *Filepp* reference, U.S. Patent No. 5,347,632. It was not specified precisely how this reference was to be applied (e.g., part of a 35 U.S.C. § 102 or 35 U.S.C. § 103 rejection), but this reference neither teaches all of the recited claim limitations nor is it properly combinable with the *Simonoff* reference.

With respect to combinability, *Filepp* may not properly be combined to anticipate the claims because the reference teaches away from the operation of the present claimed invention. *See* MPEP § 2145 (“A prior art reference that ‘teaches away’ from the claimed invention is a significant factor to be considered in determining obviousness...”). Specifically, the present invention is directed towards a thin client architecture, where substantial proportions of the processing are performed server-side to reduce the load on the client. *See* claims 1, 17, 32 36, and 45; *see, also*, Spec. p. 6, lines 19-21 (“A preferred embodiment of the present invention provides a data communication architecture that exhibits the following attributes: a relatively thin client for reduced client-side resource demands...”) (emphasis added) In stark contrast, *Filepp* is directed towards an architecture that reduces the load on the server and provides for a fat client:

...the invention includes procedures for formulating objects that have been specially structured to include display data, control data and program instructions for supporting the applications at the network reception systems, the objects being pre-created, parceled units of information that may be distributed and stored at lower levels in the network...so as to reduce processing demand on the network higher element...

Col. 2, line 60-Col. 3, line 1 (emphasis added); *see, also* Col. 76, lines 37-47 (“the table can be presented to the user’s RS 400, where the [client-side] RS 400 can provide the data processing required to present the potentially relevant keywords, objects and associated applications to the user...this procedure reduces demand on server...”); *see, also* Col. 1, lines 16-25 (“This invention relates generally to a distributed processing...computer network in which the interactive text/graphic sessions are comprised of pre-created blocks of data and program instructions which may be distributed downwardly in the network for use at a software enhanced user computer terminal that reduces processing demand on the higher-level network elements...”); *see, also* Col. 75, lines 41-56 (“the method aspect of the invention includes an

improved procedure for searching and retrieving applications from the store of applications distributed throughout network...this reduces the demand on the server...").

Accordingly, considering the *Filepp* reference "in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention," one skilled in the art would not reasonably combine *Filepp* with *Simonoff*, or any other reference, to teach or suggest the limitations of the present claimed invention. MPEP § 2141.03 (VI). Moreover, the teachings of *Filepp* may not be considered in a vacuum with improper hindsight reasoning; as the Federal Circuit noted:

It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

In re Hedges, 783 F.2d 1038, 1041, 228 U.S.P.Q. 685, 687 (Fed.Cir.1986). For at least this reason, *Filepp* is not properly combinable to create a valid 35 U.S.C. § 103 rejection.

In addition, the *Filepp* reference fails to disclose every claim limitation, and in particular the reference fails to teach or suggest at least the "skeletal UI" limitation. For example, independent claims 1, 32, and 36 recite generating or rendering a user interface including the step of "supplementing a skeletal UI...with one or more icons, labels or menu items, or combinations thereof." In contrast, *Filepp* does not "supplement" a skeletal UI, but rather the architecture of *Filepp* formulates "objects that have been specially structured to include display data, control data and program instructions for supporting the applications at the network reception systems, the objects being pre-created, parceled units of information that may be distributed and stored at lower levels in the network; e.g., at the [client-side] reception system." Col. 2, lines 60-68. In other words, the displays of *Filepp* are defined by pre-created, predefined objects that already include display data, control data, and program instructions. The plan views shown in Figures 3a and 3b show page partitions (Fig. 3a) and display fields (Fig. 3b), but these are not "icons, labels, or menu items" as claimed. Nowhere does *Filepp* describe these objects being created by supplementing a skeletal UI.

Moreover, the architecture and operation of *Filepp* fail to teach other claim limitations and generally teach away from the present invention for a variety of additional reasons. Because Applicants have not yet been provided a with reasoned rejection incorporating the *Filepp* reference, a sampling of these additional shortcomings of the reference are provided here. For example, independent claims 1 and 32, and dependent claims 44 and 53, recite a UI format and UI form definition that are “based upon a number of device capabilities for a client device,” and independent claim 17 recites a UI form definition that is “dictated by a number of device capabilities for said client device.” *Filepp* fails to teach these limitations, and instead discloses display objects that contain “information about what is to be displayed and how it is to be displayed,” but nowhere does the reference teach or suggest that these objects are “based upon” or “dictated by” client device capabilities as claimed. See, e.g., Col. 7, lines 24-46 and Col. 7, line 64-Col. 8, line 39 (describing the objects of *Filepp* without any indication of correspondence to client device capabilities). Claims 1, 32, 36, and 45 of the present invention also recite populating or rendering a native UI control of the UI on the client device with data items, and dependent claim 28 recites storing a UI form definition, including at least one native control that is stored locally at the client device. *Filepp* also fails to teach these limitations, and instead discloses pre-created objects with display data that are sent to the client device, not native objects as claimed. Col. 2, lines 60-68.

For at least these reasons, the *Filepp* reference neither teaches all of the recited claim limitations nor is it properly combinable with the *Simonoff* reference.

Rejection under 35 U.S.C. § 103

Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Simonoff* in view of ‘Official Notice’. Neither *Simonoff* nor the Official Notice, nor the combination thereof, teach or suggest all of the limitations of claim 18. Claim 18 is allowable as being dependent from claim 1 for the reasons set forth above.

Claims 4 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Simonoff et al. US 6,078,322* in view of “Browser wars: Rest in peace,” *Patrick*, January 2001. Included with this response is a 37 CFR § 1.131 declaration, swearing back of the *Patrick*

reference. This declaration is seasonably presented in accordance with MPEP § 715.09 and effectively antedates the *Patrick* reference in accordance with MPEP § 715. Thus, the 35 U.S.C. § 103 rejection is now moot.

This application now stands in allowable form and reconsideration and allowance is respectfully requested.

Respectfully submitted,

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